THE HONOURABLE SRI JUSTICE GODA RAGHURAM

-

WRIT PETITION NO.2465 OF 2006

Between

N.Siddaiah son of N.Mallaiah

…petitioner

vs.

The Secretary, Revenue(Endowments) Department, Secretariat Hyderabad and two others.

…Respondents.

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.2465 OF 2006

ORAL ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments.

The petitioner claims to be in occupation of a site in an extent of 20' (4' x 5') at the footsteps of the hill leading to Sri Lakshmi Narasimhaswami Devastanam,

Yadagirigutta. He claims that the site was allotted to him for running a retail coconut shop in 1986 and that has been running his business since then. Admittedly the lease was for a period of three (3) years and stood determined on 31-12-1986. Even thereafter he was permitted to continue. The 3rd respondent filed an application before the Deputy Commissioner concerned being O.A.No.685 of 2000 under Section. 83(3) of the A.P. Charitable and Hindu Religious Institutions & Endowments Act,1987(Act 30/87) (for short "the Act"), for declaration of the petitioner as an encroacher and for his eviction. According to the petitioner *ex parte* orders of eviction were passed on 11-05-2004 in O.A.No.685 of 2000. Aggrieved, he preferred a revision R.P.7 of 2004 on 28-06-2004 before the 2nd respondent. R.P.7 of 2004 was rejected by the 2nd respondent on 28-10-2004. The petitioner thereafter preferred another revision under Sec.93 of the Act before the 1st respondent on 21-12-2004. The petitioner's grievance, *inter alia*, is that the 1st respondent has not disposed of the revision preferred by him on 21-12-2004. According to the petitioner the 3rd respondent is proceeding to re-notify the site for grant of a lease afresh and by a public auction. The petitioner states that if the site is put to auction pending determination of his revision by the Government he will suffer irreparable loss and prejudice. In substance, the petitioner's grievance is two fold (a) that the 1st respondent has not disposed of the revision preferred on 21-12-2004, under Sec.93 of the Act; and (b) that he is potentially facing *de facto* eviction apart from the *de jure* order of eviction in O.A.685 of 2000, even during the pendency of his revision petition to the 1st respondent. The relief sought herein is a direction to the respondents to maintain *status quo* regarding his possession of the site, pending disposal of the revision by the 1st respondent.

The petitioner's lease with the 3rd respondent-Devastanam stood determined by 31-12-1986. Thereafter there is no existing lease. Endowment properties cannot be conveyed for lease orally by any of the respondents including the 1st respondent. These are properties endowed for the benefit of deity and the respondents are mere trustees exercising statutory powers for effectuating good governance. The property belongs to the Endowment and continues to be a Endowment property and is not State property. Illegal, incompetent or neglect conduct of the State actors in exercise of statutory functions cannot prejudice the beneficient employment of Endowment properties. Neither on fact or authority does the petitioner have any manner or right

to continue in the property. The order dated 11-05-2004 directing the petitioner's eviction in O.A.No.685 of 2000 not having been interdicted in the revision preferred before the 1st respondent, the eviction must be executed. The eviction of the petitioner is however subject to the outcome in the revision preferred and pending before the 1st respondent. For the nonce however the petitioner is not entitled to a direction to the respondents not to disturb his possession of the site.

On the analysis above the petitioner is not entitled to the specific relief sought by him.

The writ petition is accordingly disposed of directing the 1st respondent to expeditiously and in any event within a period of four (4) weeks from the date of receipt of a copy of this Order, dispose of the revision. The 1st respondent shall record reasons for the decision arrived at in the revision and shall communicate the order to the petitioner within the aforesaid time, without demur or default. Needless to mention any lease granted of the site to any third parties will be subject to the decision in the revision by the 1st respondent. If the 3rd respondent proceeds with the public auction of the site and grants any lease in favour of any third parties, the 3rd respondent shall inform such parties as to the pendency of the petitioner's revision. There shall be no order as to costs.

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GODA RAGHURAM,J

13TH FEBRUARY 2006

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